

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

NESTLE USA, INC. ET AL.,

Plaintiff,

v.

**ULTRA DISTRIBUCIONES
MUNDIALES, S.A. DE C.V., ET AL.**

Defendants.

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CAUSE NO. 5:20-CV-00384-OLG

LIST OF STIPULATED FACTS

Pursuant to Local Rule CV-16(f)(3), the Parties have conferred and stipulate to the following facts:

A. The Parties

1. SPN

1. SPN is a corporation organized and existing under the laws of Switzerland, with its principal place of business located at Entre-deux-Villes, 1800 Vevey Switzerland.

2. SPN is a wholly owned subsidiary of Nestlé, S.A.

2. Nestlé USA

3. Nestlé USA is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1812 N. Moore Street in Arlington, Virginia.

4. Nestlé USA is a wholly owned subsidiary of SPN.

5. Nestlé USA sells Nestlé food and beverage products in the United States.

3. Ultra

6. Ultra Mexico is a corporation organized under the laws of Mexico, with its principal place of business in Torreon, Coahuila, Mexico.

7. Ultra International is a corporation organized under the laws of the State of Texas with its principal place of business in San Antonio, Texas.

B. Products and Trademarks at Issue

8. Six brands of Nestlé food and beverage products are at issue in this case:

- a. Abuelita (dissolvable hot chocolate drink tablets),
- b. Carnation (evaporated milk),
- c. La Lechera (sweetened condensed milk),
- d. Media Crema (table cream),
- e. Nescafé (instant coffee), and
- f. NIDO (powdered milk beverage for toddlers).

9. Abuelita is a registered trademark with the U.S. Patent and Trademark Office (e.g., Reg. Nos. 4969102 and 4111185).

10. Carnation is a registered trademark with the U.S. Patent and Trademark Office (e.g., Reg. Nos. 0054383, 0113006, 0319935, 0184498, 0183986, 0889131).

11. La Lechera is a registered trademark with the U.S. Patent and Trademark Office (e.g., Reg. Nos. 1557025 and 5186726).

12. Nescafé is a registered trademark with the U.S. Patent and Trademark Office (e.g., Reg. Nos. 0379117, 0843369, 1152592, 4879308).

13. NIDO is a registered trademark with the U.S. Patent and Trademark Office (e.g., Reg. Nos. 0394221 and 4826708).

14. All six product lines—Abuelita, Carnation, La Lechera, Media Crema, Nescafe, and NIDO—bear the registered “Nestlé” trademark (e.g., Reg. Nos. 0188089, 0380007, 1105743, 1521476, 1534496, 1622720, 2089943, 2081154, 2121177, 2221586, 3343565, 3716317, 4962410, 4855611).

15. The trademarks at issue—Abuelita, Carnation, La Lechera, Nescafe, Nestlé, and NIDO—are collectively referred to as the “Nestlé Marks.”

16. Non-party Nestlé Mexico, S.A. de C.V. (“Nestlé Mexico”) is a wholly owned subsidiary of SPN.

17. Nestlé Mexico sells Nestlé food and beverage products in Mexico.

C. The Lawsuit

18. On March 25, 2020, Nestlé USA filed a complaint against Ultra.

19. On July 6, 2020, SPN was added as a plaintiff.

Dated: January 10, 2024

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**Attorneys for Defendants Ultra
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and Ultra International Distributors,
Inc.**

CERTIFICATE OF SERVICE

I hereby certify that this referenced document was electronically filed with the Court and that counsel of record, are being served this 10th day of January 2024, with a copy of the above document via the Court's CM/ECF System.

/s/ Peter S. Wahby